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PA-X REPORT: POWER-SHARING SERIES



Accommodation of National Minorities Involved in Territorial Conflicts

Laura Wise and Christine Bell



This research draws on the PA-X Peace Agreement Database (www.peaceagreements.org), a database of all peace agreements at any stage of the peace process from 1990 to 2020. The database is fully searchable and supports both qualitative and quantitative examination of peace agreements.

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PA-X Spotlight Series

The PA-X Spotlight Series addresses questions regarding comparative peace processes, asked by those seeking to influence peace and transition processes. Each Spotlight provides brief comparative material regarding a key issue, sometimes with reference to the specific context from which the question originated, and sometimes framed more generally.

This Spotlight asks:

How do peace agreements and constitutions provide for minority accommodation for an ethno-national group who constitute local majorities in a sub-national territory of a country? It addresses in particular, the context of self-determination or similar territorial dispute, and also touches on non-recognition and hostile relations between the state in which the national minority are located, and a neighbouring state in which they have 'kin-groups' with cross-border connections.

Introduction

The accommodation and protection of ethno-national groups and national minorities is often central to resolving territorial conflicts within states. These conflicts often involve (a) a group which comprises a majority in a sub-state region, but a minority nationally who lack a sense of belonging in the central state; (b) members of the majority community who live in the sub-state region where they form a minority; and (c) neighbouring states whose populations have close ethnic or national connections and allegiances ('kin-states'), who may have intervened in different ways during conflict.

In this Spotlight, we set out four key areas in which peace agreements and constitutions attempt to address accommodation of territorially-based minorities:

- ▶ by providing for forms of 'internal self-determination' in sub-state units which are given extensive powers of self-government;
- ▶ by providing forms of weighted participation of minorities at the level of the central state;
- ▶ by institutionalising cross-border arrangements of minorities with 'kin-states'; and
- ▶ by providing for mutual recognition and good relations between the state and the neighbouring 'kin state' to underpin conflict resolution.

This is not an exhaustive study or typology of what is a large and complex area, nor do we set out the relative merits and demerits of any particular mechanisms. This Spotlight is instead intended to provide an indicative list of comparative examples drawn from the PA-X Peace Agreements Database, from proposed draft agreements, constitutions, and international agreements on ethno-national minority rights, as a quick guide to the types of mechanisms that have been used or proposed across a variety of contexts, and to also provide easy links to the key examples for practitioners.

I: Group Accommodation by the State

1. Territorial Self-government Arrangements: Forms of Devolved Power on a Territorial Basis in Order to Accommodate Groups

A key response to territorial-based conflict is forms of devolution of power to allow for extensive self-government of a minority by its political leaders. There are different degrees to which power can be devolved, different names which can be given to the arrangements, and different technicalities of set up.¹

- **Autonomy, devolution or forms of federalism.** Form of devolved government which provides many of the powers of the State to be devolved to the sub-state level, while leaving the formal sovereignty of the central state in place. For example, the Åland Islands framework provides for autonomy secured by the Finnish Constitution. The [Act on the Autonomy of Åland](#) provides for the division of political power – interestingly this is 'divided' rather than 'devolved'. This means the island's autonomy enjoys strong legal protection. Any changes are subject to adoption by the Parliament of Åland (Lagtinget), meaning that Åland can veto any changes to the division of power between Åland and the central government of Finland.

The UK and the status of Scotland provides a similar example of a more informal form of protection for devolution, currently being tested by Brexit. Similar forms of autonomy have been agreed in Philippines and Aceh (Indonesia) to name a few.² See also the [Annan Plan for Cyprus](#), which also applied an exception from EU law on non-discrimination for restrictions on residency where it would affect the national make-up of the Turkish or Greek area, for a period of 19 years post the Act, or when Turkey joined the EU, whichever was earlier.³

- **Sub-divided administrative areas.** The 2014 Agreement on [Resolution of the Conflict in Jonglei State](#) established a Greater Pibor Administrative Area, sub-divided into six counties, in accordance with the South Sudan Local Government Act.⁴
- **Territorial councils.** The 2003 [Memorandum of Settlement on Bodoland Territorial Council](#) established a self-governing body for a minority (tribal area) in the Indian state of Assam, with devolved competencies over development, education, and social welfare. It is described in the agreement as autonomous, but the Government of Assam retains some sanctioning powers, for example on establishment of posts.⁵

- ▶ **Co-ordination body for borderlands municipalities.** Sometimes creative forms of sub-state arrangement can be used to accentuate minority self-government. The 2001 [Covic Plan](#) for southern Serbia, for example, formed the basis for the Co-ordination Body of three Albanian-majority municipalities, to facilitate regional development and minority integration into local state institutions.⁶
- ▶ **Sub-state political power-sharing.** Where power is devolved to a sub-state level, it is often coupled with safeguards for groups which are in a majority nationally, who will find themselves in a minority at the level of the new sub-state unit. A key mechanism is the provision of group-oriented power-sharing at the devolved level. The 2013 [Annex on Power-Sharing to the Framework Agreement on the Bangsamoro](#) (the Philippines) provided for a Bangsamoro Ministerial Government, regional assembly including representatives of non-Moro indigenous communities, women, settler communities, and other sectors in Mindanao, and a council of leaders.⁷ The 1995 Dayton [Agreement on Implementing the Federation of Bosnia and Herzegovina](#) provided for proportionality in canton and municipal legislatures, and city councils.⁸

2. Territorial Minority Inclusion at the Level of the Central State: National Minority Rights

A number of mechanisms can be used to ensure some increased representation of ethno-national minorities at the level of the central state.

- ▶ **Political power-sharing.** Providing for minority rights protections, in the form of: (a) required proportional ethnic coalition at executive level; (b) proportionality in legislature and other institutions; (c) mutual veto for areas of vital interest; (d) segmental or territorial autonomy. Political power-sharing has been provided for in peace agreements and/or constitutions in (for example) Northern Ireland, Burundi, Bosnia and Herzegovina, Iraq, Kenya, Kosovo, and Macedonia.
- ▶ **Inter-provincial council.** The 2015 [Constitution of Nepal](#) established an Inter-Provincial Council to settle disputes between the central government and provinces, and disputes between provinces.⁹ The Swiss and Ethiopian constitutional models also have this type of more political adjudication mechanism.

- ▶ **Forms of regional or ethnic weighting in second legislative chamber.** This is provided for in South Africa (where the second chamber involves regions), in Bosnia and Herzegovina, and Belgium, among others. It is a common part of more formally Federal systems. This was also provided for as between Greek and Turkish Cypriots in the Annan Plan (rejected).
- ▶ **Robust human rights and non-discrimination protections, with forms of affirmative action in key public institutions in which the minority tends to be underrepresented.** In Northern Ireland, the Government of Ireland Act 1920 provided for minority representation of one third in the police force, and the 1998 [Northern Ireland Act](#) implementing the Belfast or Good Friday Agreement (and replacing the 1920 Act) provides for robust equality measures, including an equality duty (now UK-wide).¹⁰ Agreements in [Burundi's peace process](#) combined power-sharing with robust human rights protections (although these were not well implemented),¹¹ as did the [Ohrid Agreement](#) in Macedonia.¹²
- ▶ **Eternity clauses.** Constitutional clauses which protect territorial arrangement from amendment, either at all, or without a weighted majority likely to require the consent of a minority group, can add protection to any territorial minority accommodation agreed. [Germany](#) provides a permanent constitutional guarantee of federal devolution, which ensures ongoing regional representation.¹³
- ▶ **Symbolic or cultural inclusion.** In the form of language guarantees, and a mutually acceptable flag and national anthem (for example, Cyprus' Annan Plan, [Libya](#), [Nepal](#)),¹⁴ or right to display regional symbols and flags ([Indonesia/Aceh](#)),¹⁵ and careful cultural selection of public holidays. Concepts of 'parity of esteem' as overarching commitments have been used in Northern Ireland and the Philippines, for example.

II. Related Inter-state Arrangements

Where neighbouring states with kin groups – ‘kin-states’ – have been supportive of a territorial minority, and viewed as unsympathetic or even hostile or threatening by the conflict-affected state, forms of inter-state agreement are often part of any conflict resolution effort. These again have a variety of forms as illustrated below.¹

1. Cross-border Arrangements with Kin-states: Mechanisms to Protect or Promote Cross-border Relations Between Ethno-national Kin

Various forms of cross-border support can be provided for national minorities with close ties to neighbouring states, or whom frequently cross inter-state borders.

- ▶ **Parallel special relations.** The 1995 [Agreed Basic Principles](#) for Bosnia and Herzegovina guaranteed both sub-state entities the right to establish parallel special relationships with neighbouring countries, consistent with the sovereignty and territorial integrity of Bosnia and Herzegovina.¹⁶ This provision enabled the Republika Srpska to sign an [agreement](#) in 1997 to establish special parallel relations with the Federal Republic of Yugoslavia (Bosnian Serbs’ kin-state, now Serbia), without violating the spirit of the 1995 [Dayton Peace Agreement](#).¹⁷ Sub-state entities were also granted the freedom to establish relations with external states in agreements for [Mali \(Azawad\)](#),¹⁸ [Moldova \(Transdniestria\)](#),¹⁹ and [Sudan/South Sudan \(Southern Kordofan\)](#).²⁰
- ▶ **Dual citizenship and/or granting of residency rights.** The 1998 [Good Friday Agreement](#) for Northern Ireland granted all people of Northern Ireland the right to hold both British and Irish citizenship.²¹ The 1995 [Dayton Peace Agreement](#) enabled citizens of Bosnia and Herzegovina to also hold citizenship of another state, if there is a bilateral agreement on dual citizenship between the two states.²² The [Annan Plan for Cyprus](#) (rejected, but interesting as comparative example), provided for rules on according residency rights to kin-groups from the other ‘part’ of Cyprus.²³

- ▶ **Unimpaired access to kin-state.** In 1996, Bosnia and Herzegovina and the Federal Republic of Yugoslavia agreed to ensure that citizens could '[travel across the border without visas or any particular formalities](#)'.²⁴ The 2012 [Agreement between Sudan and South Sudan on Border Issues](#) provided for the parties to reach further agreements to facilitate the movement of border communities across the international boundary, including considering the views of affected communities during implementation of any policies (as a consultative, not determinative, mechanism).²⁵ The long-standing Common Travel Area between Ireland and the United Kingdom is another way that such access was achieved for residents of Northern Ireland, later extended by integration in the EU and provision for freedom of movement of people, goods and services across the island, and now preserved by post-UK exit from the EU ('Brexit') arrangements.
- ▶ **Bilateral agreements on the protection of national minorities.** As part of normalization processes, multiple states have signed bilateral treaties that acknowledge host state responsibility for upholding national minority rights, but that kin-states can be interested in the status of co-ethnics abroad. In 2004, Serbia and Montenegro signed an agreement with Croatia providing for comprehensive minority rights in both countries of each state's kin-minority.²⁶ These agreements can follow on from brief provisions in initial normalization agreements when parties agree to protect national minority rights within their borders, as contained in the 1996 normalization agreement between Macedonia and the Federal Republic of Yugoslavia.²⁷
- ▶ **Joint Inter-state Institutions.** The 1998 [Good Friday Agreement](#) provided for a North/South Ministerial Council for consultation between those with executive responsibilities in Northern Ireland and the Irish Government.²⁸ It also established a British-Irish Council to bring together all the relationships between the British-Irish and UK devolved governments (sometimes known as the 'East-West' Council), and a British-Irish Intergovernmental Conference for relationships between the British and Irish government. The 2012 [Framework Agreement on the Status of Nationals of the Other State](#) established a Joint High-Level Committee between Sudan and South Sudan to oversee implementation of joint measures for the status and treatment of nationals in each other's state. In North and South Sudan, post secession of the South, a joint Central Bank was created.²⁹

- **Cross-border payment agreements.** In 2012, Sudan and South Sudan signed an [agreement](#) to facilitate payment of post-service benefits for those employed as public servants or pensioners of the Republic of Sudan, located in South Sudan.³⁰ It established a Joint Ministerial Committee on Pensions, and parties agreed to refer unresolved disputes to the International Labour Organization. These were established, however, as a matter of managing the secession of South Sudan, where the central remainder state had formerly had sole responsibility, but indicate the possibility for inter-state financial support relevant to conflict resolution efforts.

2. Mutual Recognition Arrangements between Neighbouring States: Formalised Arrangements Between States Concerned with their Relations

The arrangements outlined above are often coupled with attempts to address the concerns of the conflict-affected state, as to its sovereignty.

- **Mutual recognition of sovereignty and territorial integrity, underwritten by international law.** In the 1999 [Nairobi Agreement](#), the Governments of Sudan and Uganda agreed to respect the sovereignty and territorial integrity of both countries, in accordance with the charters of the United Nations and the Organisation for African Unity.³¹ These provisions are common in conflict-related formal agreements on inter-state relations, and often reference both the UN charter and regional organisations, such as the OAU or the OSCE.
- **Mutual recognition of sovereignty and territorial integrity, underwritten by international external states.** In Cambodia, states formerly involved in both the conflict and in underwriting the peace process, jointly also signed [mutual recognition of sovereignty arrangements](#).³²
- **Governance of relations under principles of international law.** Several normalization agreements also contain generic provisions for international law to guide inter-state relations. In the 1999 [Agreement between Eritrea and Sudan](#), both parties agreed to respect international laws and customs regulating peaceful co-existence and good neighbourly relations.³³

- ▶ **Commitment to resolving remaining differences through peaceful means.** The 1997 [Moscow Memorandum](#) between Moldova and Transdniestria contains a commitment for parties not to resort to the use of force or the threat of force, and to resolve any differences exclusively through peaceful means.³⁴ This is a common provision in normalization agreements, and can (a) address concerns of unilateral, violent, kin-state intervention on behalf of an oppressed minority, and (b) encourage parties to avoid warmongering public rhetoric.
- ▶ **Ending hostile media campaigns.** The 2009 [Doha Agreement](#) between Chad and Sudan included a commitment for parties to end hostile media campaigns and encourage a positive media discourse to strengthen relations.³⁵ This could be useful in contexts where state capture of the media means that a party to the agreement would be able to implement this provision, and where hostile media discourses and other well-publicised but carefully controlled 'incidents' have undermined the process to normalize relations.
- ▶ **Establishing formal diplomatic relations.** In normalization agreements, parties often agree to establish formal diplomatic relations, including opening embassies in each other's capital cities. The 1994 [Serb-Croat Joint Declaration](#) agreed to open official offices in Belgrade and Zagreb to facilitate normalization of relations.³⁶
- ▶ **Promoting informal channels to develop inter-state relations.** The 2007 [bilateral agreement](#) between Sudan and Chad encouraged both official and private contacts between nationals of both countries, particularly between businesspersons and investors, to foster communication and cooperation.³⁷ Interestingly, both states recognise the inevitability of informal contacts between nationals of either country, especially cross-border kin minorities.

Related PSRP Resources

- ▶ Bell, C. (2018). [*Accessing Political Power: Women and Political Power-Sharing in Peace Processes*](#) (Gender Briefing Series). UN Women.
- ▶ Bell, C. (2018). [*Political Power-sharing and Inclusion: Peace and Transition Processes*](#) (PA-X Report, Power-Sharing Series). Global Justice Academy, University of Edinburgh.
- ▶ Bell, C. (2018). [*Power-Sharing, Conflict Resolution, and Women: A Global Reappraisal*](#). Nationalism and Ethnic Politics, 28(1), pp. 13-32.
- ▶ Wise, L. (2018). [*Territorial Power-sharing and Inclusion in Peace Processes*](#) (PA-X Report, Power-Sharing Series) (PA-X Report, Power-Sharing Series). Global Justice Academy, University of Edinburgh.
- ▶ Wise, L., & Bell, C. (2018). [*Gaining Ground: Women and Territorial Power-Sharing in Peace Processes*](#) (Gender Briefing Series). UN Women.
- ▶ Wise, L. (2018). [*Setting Aside the "Others": Exclusion amid Inclusion of Non-dominant Minorities in Peace Agreements*](#). Nationalism and Ethnic Politics, 24(3), pp. 311–323.

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- 1 See further: Wise 2018, for a more detailed account of territorial arrangements and non-dominant minorities. Wise, L. (2018). Setting Aside the 'Others': Exclusion amid Inclusion of Non-dominant Minorities in Peace Agreements. *Nationalism and Ethnic Politics*, 24(3), pp. 311–323.
- 2 For peace agreements from 1990–2020 that include provisions for or related to autonomy, see: PA-X Peace Agreement Database: <https://edin.ac/3uzf37t>
- 3 We have included the 'Annan Plan' for Cyprus as an interesting example in this Spotlight, however, please note that it is not listed on PA-X as ultimately it was rejected.
- 4 Republic of South Sudan and Sudan, 'Agreement on Resolution of the Conflict in Jonglei State between Government of the Republic of South Sudan and South Sudan Democratic Movement/Army-Cobra Faction (SSDM-SSDA-Cobra) (Yau Yau Agreement)', May 15 2014, <https://www.peaceagreements.org/view/1675/>
- 5 India/Bodoland, 'Memorandum of Settlement on Bodoland Territorial Council', 10 February 2003, <https://www.peaceagreements.org/view/652/>
- 6 Serbia, 'Program for the Solution of the Crisis in the Pcinja District (Covic Plan)', 1 February 2001, <https://www.peaceagreements.org/view/1431/>
- 7 Philippines, 'Annex on Power-Sharing to the Framework Agreement on the Bangsamoro (FAB)', 8 December 8 2013, <https://www.peaceagreements.org/view/868/>
- 8 Bosnia and Herzegovina, 'Dayton Agreement on Implementing the Federation of Bosnia and Herzegovina (Dayton Agreement)', 10 November 1995, <https://www.peaceagreements.org/view/2/>
- 9 Macedonia, Framework Agreement (The Ohrid Agreement), 13 August 2001, <https://www.peaceagreements.org/view/381/>
- 10 Northern Ireland Act, 1998, available from: <https://www.legislation.gov.uk/ukpga/1998/47/contents> (accessed 25 February 2021).
- 11 Burundi agreements listed on PA-X Peace Agreements Database with power-sharing and human rights provisions: <https://edin.ac/3bHhbl7>
- 12 Macedonia, Framework Agreement (The Ohrid Agreement), 13 August 2001, <https://www.peaceagreements.org/view/381/>
- 13 Constitution of Germany (1949). Available from: <https://constitutionnet.org/vl/item/constitution-germany-1949> (accessed 25 February 2021).
- 14 Libya, 'Draft Constitutional Charter for the Transitional Stage: The Constitutional Declaration', 3 August 2011; <https://www.peaceagreements.org/view/728/>
- 15 Nepal, 'Nepal Interim Constitution', 15 January 2007, <https://www.peaceagreements.org/view/1322/>
- 15 Indonesia/Aceh, 'Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement (Helsinki MOU)', 15 August 2005, <https://www.peaceagreements.org/view/450/>
- 16 Bosnia and Herzegovina, 'Agreed Basic Principles signed on 8 September at Geneva', 8 September 1995, <https://www.peaceagreements.org/view/77/>
- 17 Bosnia and Herzegovina, 'Agreement on Special Parallel Relations between the Federal Republic of Yugoslavia and Republika Srpska', 28 February 1997, <https://www.peaceagreements.org/view/276/>
- 18 Mali, 'Pacte National conclu entre le Gouvernement de la République du Mali et les mouvements et fronts unifiés de l'Azawad consacrant le statut particulier du Nord au Mali', 11 April 1992, <https://www.peaceagreements.org/view/637/>
- 19 Moldova, 'Memorandum on the Bases for Normalization of Relations between the Republic of Moldova and Transnistria', 8 May 1997, <https://www.peaceagreements.org/view/454/>
- 20 Sudan and South Sudan, 'Framework Agreement between Government of the Sudan and Sudan People's Liberation Movement (North) (SPLM-North) on Political Partnership between the National Congress Party (NCP) and SPLM-N, and Political and Security Arrangements in Blue Nile and Southern Kordofan States', 28 June 2011, <https://www.peaceagreements.org/view/852/>

- 21 Ireland, United Kingdom and Northern Ireland, 'The Agreement Reached in the Multi-Party Negotiations (Good Friday Agreement or Belfast Agreement)', 10 April 1998, <https://www.peaceagreements.org/view/556/>
- 22 Bosnia and Herzegovina, 'General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement)', <https://www.peaceagreements.org/view/389/>
- 23 See 'Article 3: Citizenship, residency and identity' in Cyprus, 'The Comprehensive Settlement of the Cyprus Problem' (Annan Plan), 31 March 2004. Available from: http://www.hri.org/docs/annan/Annan_Plan_Text.html (Accessed 25 February 2021).
- 24 Bosnia and Herzegovina/Yugoslavia (former), 'Joint Declaration (on normalisation of relations between Federal Republic of Yugoslavia and Bosnia and Herzegovina)', 3 October 1996, <https://www.peaceagreements.org/view/1903/>
- 25 Sudan and South Sudan, 'Agreement between Sudan and South Sudan on Border Issues', 21 September 2012, <https://www.peaceagreements.org/view/856/>
- 26 Agreement between Serbia and Montenegro and the Republic of Croatia on the protection of the rights of the Serbian and Montenegrin minority in the Republic of Croatia and of the Croatian minority in Serbia and Montenegro. Done at Belgrade on 15 November 2004 (Text No. 19). Published in Arp, Bjorn. 2004. *International Norms and Standards for the Protection of National Minorities*. Leiden: Martinus Nijhoff Publishers, pp. 487-493.
- 27 'Macedonia-Federal Republic of Yugoslavia: Communique and Agreement on the Regulation of Relations and Promotion of Cooperation'. *International Legal Materials* 35, no. 5 (1996), pp. 1246-250. Accessed 25 February 2021, <http://www.jstor.org/stable/20698605>
- 28 Ireland, United Kingdom and Northern Ireland, 'The Agreement Reached in the Multi-Party Negotiations (Good Friday Agreement or Belfast Agreement)', 10 April 1998, <https://www.peaceagreements.org/view/556/>
- 29 Sudan and South Sudan, Framework Agreement on the Status of Nationals of the Other State and Related Matters between Sudan and South Sudan, 27 September 2012, <https://www.peaceagreements.org/view/861/>
- 30 Sudan and South Sudan, 'Framework Agreement to Facilitate Payment of Post Service benefits between Sudan and South Sudan', 27 September 2012, <https://www.peaceagreements.org/view/858/>
- 31 Sudan and Uganda, 'Agreement between the Governments of Sudan and Uganda (The Nairobi Agreement)', 8 December 1999, <https://www.peaceagreements.org/view/235/>
- 32 See 'Agreement Concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia (Framework for a Comprehensive Political Settlement of the Cambodia Conflict' or 'Paris Accords', 23 October 1991, <https://www.peaceagreements.org/viewmasterdocument/243>
- 33 Eritrea and Sudan, 'Agreement reached between the State of Eritrea and the Republic of the Sudan', 1 May 1999, <https://www.peaceagreements.org/view/627/>
- 34 Moldova and Transnistria, 'Memorandum on the Bases for Normalization of Relations between the Republic of Moldova and Transnistria', 8 May 1997, <https://www.peaceagreements.org/view/454/>
- 35 Chad and Sudan, 'Doha Agreement', 3 May 2009, <https://www.peaceagreements.org/view/715/>
- 36 Croatia and Yugoslavia (former), 'Serb-Croat Joint Declaration', 19 January 1994, <https://www.peaceagreements.org/view/1875/>
- 37 Sudan and Chad, 'Accord de N'Djamena sur la normalisation des relations entre le Tchad et le Soudan', 15 January 2010, <https://www.peaceagreements.org/view/716/>

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